

Chairman Vap called the regularly scheduled meeting to order at 10:00 a.m. with Commissioners Boyle, Lowell Johnson, Rod Johnson, Landis and Vap present.

#### GENERAL ADMINISTRATION

Notice was duly published May 3, 2005 on Page 7 of The Daily Record that the regular public meeting of the Commissioners of the Nebraska Public Service Commission would be held Wednesday, May 11, 2005 at 10:00 a.m. in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln.

Attention was called to the following proceedings:

#### Wednesday, May 11, 2005:

NUSF-32.04 Commission Hearing Room, Lincoln.

1:30 In the Matter of the Commission, on its own motion, seeking to conduct an inquiry into the failure of various companies to comply with Commission Orders and, at its own discretion, impose administrative fines against the named defendants. Commissioner Rod Johnson presiding as Hearing Officer.

#### Thursday, May 12, 2005:

C-3345/ Procedural Conference. Commission Library, Lincoln; McCook  
NUSF-42/ Community College, McMillen Hall, Room 208, 1205 East 3rd  
PI-93 Street, McCook; Nebraska State Office Building, Room 207,  
10:00 1313 Farnam, Omaha; and Hastings Public Library, 2<sup>nd</sup> Floor,  
517 West 4<sup>th</sup> Street, Hastings. In the Matter of the Commission, on its own motion, seeking to investigate Qwest's Switched Access Charge Rates. Commissioner Landis chairing.

#### COMMUNICATIONS DEPARTMENT

AD-319r In the Matter of American Clothing Company, Council Bluffs, Iowa, seeking authority to connect an automatic dialing-announcing device: Motion made by Commissioner Rod Johnson, seconded by Commissioner Anne Boyle, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

FC-1321 In the Matter of the Petition of McLeodUSA Telecommunications Services, Inc., Cedar Rapids, Iowa, seeking enforcement of the interconnection agreement with Qwest Corporation, Denver, Colorado: Motion made by Commissioner Anne Boyle, seconded by Commissioner Lowell Johnson, to enter an order dismissing the complaint. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

COMMUNICATIONS DEPARTMENT (Cont.)

C-3206        In the Matter of the Commission, on its own motion, seeking to administer the Nebraska Internet Enhancement Fund:  
Motion made by Commissioner Frank Landis, seconded by Commissioner Lowell Johnson, to enter an order approving the grant addendum for Nemaha County. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

C-3206        In the Matter of the Commission, on its own motion, seeking to administer the Nebraska Internet Enhancement Fund:  
Motion made by Commissioner Frank Landis, seconded by Commissioner Lowell Johnson, to enter an order approving initial payment to the City of Chappell. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

C-3273        In the Matter of VCI Company, d/b/a Vilaire Communication, Inc., Lakewood, Washington, seeking a Certificate of Public Convenience and Necessity as a local competitive exchange carrier in Nebraska and designation as an eligible telecommunications carrier:  
Motion made by Commissioner Frank Landis, seconded by Commissioner Lowell Johnson, to enter an order granting the application in part. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

C-3381/  
DC-70        In the Matter of the Commission, on its own motion, seeking to enter a show cause order against those telecommunication companies that have not filed their 2004 Annual Reports:  
Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle, to enter show cause orders. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

C-3383        In the Matter of Diode Telecom, Inc., Diller, seeking authority to operate as a local exchange and interexchange carrier of telecommunications services within the state of Nebraska:  
Motion made by Commissioner Frank Landis, seconded by Commissioner Lowell Johnson, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

C-3399        In the Matter of Capsule Communications, Inc., Bensalem, Pennsylvania, seeking to withdraw their Authority to Operate as a Resale Common Carrier of Telecommunications Services in the state of Nebraska as previously granted in Docket C-3003: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis, to enter an order withdrawing the certificate. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

COMMUNICATIONS DEPARTMENT (Cont.)

C-3392        In the Matter of Qwest Corporation, Denver, Colorado, seeking an amendment to the interconnection agreement for Elimination of UNE-P and Implementation of Batch Hot Cut Process and Discounts with CAT Communications International, Inc., Roanoke, Virginia, previously granted in Docket C-3200: Motion made by Commissioner Rod Johnson, seconded by Commissioner Lowell Johnson, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

C-3393        In the Matter of Qwest Corporation, Denver, Colorado, seeking an amendment to the interconnection agreement for Elimination of UNE-P and Implementation of Batch Hot Cut Process and Discounts with DIECA Communications, Inc., dba Covad Communications Company, Denver, Colorado, previously granted in Docket C-2325: Motion made by Commissioner Rod Johnson, seconded by Commissioner Lowell Johnson, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

C-3396        In the Matter of United Telephone Company of the West, dba Sprint, Overland Park, Kansas, seeking a Master Interconnection, Collocation and Resale Agreement with Airwave Wireless Communications Inc., Scottsbluff: Motion made by Commissioner Rod Johnson, seconded by Commissioner Lowell Johnson, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

W-010        In the Matter of Lakeland Estates Water Co., Blair, seeking authority to increase rates effective July 1, 2005: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Rod Johnson, to enter an order opening the docket. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

C-3324        In the Matter of N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless, Fort Morgan, Colorado, seeking a designation as an eligible telecommunications carrier under 47 U.S.C. Section 214(e)(2): Shana Knutson and Gene Hand updated the Commission on the status of the docket.

C-3345/  
NUSF-42/  
PI-93        In the Matter of the Commission, on its own motion, seeking to investigate Qwest's Switched Access Charge Rates. Commissioner Landis chairing: Shana Knutson updated the Commission on the status of the docket. A Hearing Officer order was entered changing the Oral Argument scheduled for May 12, 2005, to a Procedural Conference at 10:00 a.m. in the Commission Hearing Room, Lincoln.

COMMUNICATIONS DEPARTMENT (Cont.)

Gene Hand discussed the letter received from MCI regarding a paper billing fee. The paper billing fee is an interstate charge. MCI will assess a \$.99 per-month per-account paper billing fee to residential customers who receive a paper monthly invoice statement effective May 1, 2005. Gene Hand also reported on the letter for joint notice concerning Verizon Communications Inc.'s, Acquisition of MCI, Inc.

Gene Hand reported that the deadline for filing comments in the Federal Communications Commission's InterCarrier Compensation Further Notice of Proposed Rulemaking (FCC 05-33) is May 23, 2005. The staff will draft comments consistent with the principles adopted by the National Association of Regulatory Utility Commissioners (NARUC) Task Force on Intercarrier Compensation.

E911 DEPARTMENT

Commissioner Boyle inquired about recurring and non-recurring costs that the Commission has approved and monthly surcharge revenue. Discussion was held with Joan Raffety about the possibility of lowering the surcharge.

UNIVERSAL SERVICE FUND

NUSF-32.04 In the Matter of the Commission, on own motion, seeking to conduct an inquiry into the failure of various companies to comply with Commission Orders and, at its own discretion, impose administrative fines against the named defendants: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle, to dismiss the show cause order against MCI WorldCom. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

Jeff Pursley discussed Late-Filed Carrier Remittances: Motion made by Commissioner Anne Boyle, seconded by Commissioner Lowell Johnson, to file a complaint against 360 Networks (USA), Inc. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

Jeff Pursley discussed the refund that is due Charter-Fiberlink: Motion made by Commissioner Frank Landis, seconded by Commissioner Rod Johnson, that any refund due Charter-Fiberlink be dependant upon a third party audit of data periods that were overpaid. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

UNIVERSAL SERVICE FUND (Cont.)

Jeff Pursley discussed the refund that is due Teligent, Inc.: Motion made by Commissioner Frank Landis, seconded by Commissioner Rod Johnson, that any refund due Teligent, Inc. be dependant upon a third party audit of data periods that were overpaid. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

Jeff Pursley discussed the refund that is due Tracfone: Motion made by Commissioner Frank Landis, seconded by Commissioner Rod Johnson, to approve the refund due Tracfone for the surcharges that were overpaid during the data periods of March, 2001 through June, 2003. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

NUSF-42/ In the Matter of the Commission, on its own motion, seeking  
C-3345 to investigate Qwest's Switched Access Charge Rates. Com-  
PI-93 missioner Landis chairing: Jeff Pursley updated the Com-  
mission on a Motion from Qwest for a Procedural Conference,  
Response to Motion for Interim Relief Pending Investigation received  
from MCI and ALLTEL and, a Brief Supporting Motion for Interim Relief  
Pending Investigation received from MCI.

NATURAL GAS DEPARTMENT

NG-0004 In the Matter of Aquila, Inc., d/b/a Aquila Networks  
(Aquila), seeking a waiver of notice and publication and to  
implement supply cost adjustment rate schedules for Aquila's Rate Area  
One, Rate Area Two and Rate Area Three. Commissioner Landis presiding  
as Hearing Officer: The workshop for presentation by Aquila regarding  
Annual Gas Supply Purchasing Plan previously scheduled for May 16,  
2005, was continued to a date later to be determined.

NG-0023.1 In the Matter of Kinder Morgan, Inc., Lakewood, Colorado,  
seeking to implement supply cost adjustment associated with  
Other Services Charge applicable to Nebraska Rate Schedules CGS  
(Choice Gas Service), ACGS-NSS (Agricultural Choice Gas Service Non-  
Seasonal Service), and ACGS-SS (Agricultural Choice Gas Service  
Seasonal Service). Commissioner Vap presiding as Hearing Officer: A  
hearing was set for a date later to be determined.

In the Matter of the request from Kinder Morgan, Inc. for  
an extension until May 20, 2005, to file the 2004 Annual Report:  
Motion made by Commissioner Rod Johnson, seconded by Commissioner  
Frank Landis, to approve the request for an extension until May 20,  
2005. Motion passed with Commissioners Anne Boyle, Lowell Johnson,  
Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

## RULES AND REGULATIONS

Rule and In the Matter of the Commission, on its own motion, seeking Regulation to promulgate Title 291, Chapter 8, Grain Warehouse and #158 Grain Dealer Rules and Regulations, to adopt rules in accordance with Nebraska Legislative Bill 723 [2003]. Commissioner Vap presiding as Hearing Officer: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis, to enter an order issuing a Certificate of Adoption for Proposed Rules. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

## TRANSPORTATION DEPARTMENT

B-1659 In the Matter of Central Limousine, a partnership, Grand Island, seeking to acquire, through transfer, the authority granted to Darryl Wilhelm, dba Central Limo Service, in Certificate Number B-1552: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle, to enter an order granting temporary authority. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, and Jerry Vap voting AYE, Commissioner Frank Landis Excused Not Voting.

### Rate Division

MR-1009/ In the Matter of the Commission, on its own motion, seeking PI-70 to initiate an investigation on range uniformity in the Official Intracity Household Goods Tariff 22, and to develop procedures for efficiently processing household goods mover tariff amendments: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Rod Johnson to enter an order to grant the application for an increase. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Jerry Vap voting AYE, Commissioner Frank Landis Excused Not Voting.

MR-930 In the Matter of Movers and Warehouse Division, Nebraska Motor Carriers Association, Lincoln, seeking authority to establish a fuel surcharge in Nebraska Official Household Goods Tariff 7-F: The fuel surcharge was retained at 42 cents per mile.

## GRAIN WAREHOUSE DEPARTMENT

GW-2135 In the Matter of Wilhelm Grain, Inc., Humboldt: John Fecht updated the Commission on the matter.

Commissioner Frank Landis exited the Commission Hearing Room.

GENERAL ADMINISTRATION

Motion made by Commissioner Lowell Johnson, seconded by Commissioner Rod Johnson, to approve the following Commission invoices. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, and Jerry Vap voting AYE, Commissioner Frank Landis Excused Not Voting.

|                |    |        |
|----------------|----|--------|
| Kelly Services | \$ | 577.50 |
| Voyager        |    | 951.74 |
| Rod Johnson    |    | 249.48 |

NEBRASKA EQUIPMENT DISTRIBUTION PROGRAM

|                                   |          |
|-----------------------------------|----------|
| AGN Sales                         | 1,149.20 |
| Alternative Hearing               | 1,988.75 |
| Associated Hearing Health         | 141.50   |
| Bosler Hearing Aid Center         | 225.05   |
| Grand Island Hearing Aid          | 392.00   |
| Harris Communications             | 259.95   |
| Hearing Aid Specialists Inc       | 405.90   |
| Carl A. Johnson                   | 3,094.30 |
| K-D Communications                | 5,068.45 |
| Professional Hearing Aid Services | 2,579.50 |
| Sherard Hearing Aid Center        | 1,133.90 |
| Teltex                            | 580.25   |
| Hearing Clinic Inc                | 835.00   |
| Weitbrecht Communications         | 3,331.95 |
| Western ENT Associates            | 328.90   |

Motion made by Commissioner Rod Johnson, seconded by Commissioner Lowell Johnson, to approve Commission minutes for April, 2005. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, and Jerry Vap voting AYE, Commissioner Frank Landis Excused Not Voting.

Upon agreement of all Commissioners present, authorization was granted for Mark Luttich to travel to Council Bluffs, Iowa, on May 19, 2005, to speak to the Nebraska Manufactured Home Association regarding the pending HUD manufactured home installation standards, with expenses to be paid by the Manufactured Home Program.

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The meeting adjourned at 11:05 a.m. with Commissioners Boyle, Lowell Johnson, Rod Johnson and Vap present, Commissioner Frank Landis excused. The next regularly scheduled meeting will be held on May 17, 2005, at 10:00 a.m. with an agenda to be available in the office of the Executive Director at 10:00 a.m. on May 16, 2005.

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Chairman

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Deputy Director